

JUDGE KOELTL

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

KELLY TOYS HOLDINGS, LLC,

Plaintiff

v.

DONGGUAN YIKANG PLUSH TOYS CO., LTD. d/b/a
WWW.SQUISHMALLOWSS.COM,

Defendant

Civil Case No.:

~~PROPOSED~~ *SGK*

1) TEMPORARY
RESTRAINING ORDER; 2)
ORDER RESTRAINING
DEFENDANT'S WEBSITE
AND DEFENDANT'S
ASSETS WITH THE
FINANCIAL
INSTITUTIONS; 3) ORDER
TO SHOW CAUSE WHY A
PRELIMINARY
INJUNCTION SHOULD
NOT ISSUE; 4) ORDER
AUTHORIZING
BIFURCATED AND
ALTERNATIVE SERVICE;
AND 5) ORDER
AUTHORIZING
EXPEDITED DISCOVERY

FILED UNDER SEAL

GLOSSARY

Term	Definition
Plaintiff or Kelly Toys	Kelly Toys Holdings, LLC
Defendant	Dongguan Yikang Plush Toys Co., Ltd. d/b/a www.squishmallowss.com
Epstein Drangel	Epstein Drangel LLP, counsel for Plaintiff
New York Address	244 Madison Ave, Suite 411, New York, NY 10016
Complaint	Plaintiff's Complaint
Application	Plaintiff's <i>ex parte</i> application for: 1) a temporary restraining order; 2) an order restraining Defendant's Website (as defined <i>infra</i>) and Defendant's Assets (as defined <i>infra</i>) with the Financial Institutions (as defined <i>infra</i>); 3) an order to show cause why a preliminary injunction should not issue; 4) an order authorizing bifurcated and alternative service; and 5) an order authorizing expedited discovery
Kelly Dec.	Declaration of Jonathan Kelly in Support of Plaintiff's Application
Futterman Dec.	Declaration of Danielle S. Futterman in Support of Plaintiff's Application
Squishmallows Applications	U.S. Trademark Serial Application Nos.: 88/471,796 for "SQUISHMALLOWS HUGMEES" for goods in Class 28 and 90/676,140 for "ORIGINAL SQUISHMALLOWS," for goods in Class 28
Squishmallows Registrations	U.S. Trademark Registration Nos.: 5,454,574 for "SQUISHMALLOW" for goods in Class 28; 6,137,521 for "FLIP A MALLOWS" for goods in Class 28; 5,962,289 for "MYSTERY SQUAD" for goods in Class 28; and 2,029,047 for "KELLYTOY" for goods in Class 28
Squishmallows Marks	The marks covered by the Squishmallows Registrations and Squishmallows Applications
Squishmallows Works	The works covered by the U.S. copyright registrations listed in Exhibit C to the Complaint
Squishmallows Products	A line of loveable buddies made with a super soft, marshmallow-like texture that come in a variety of sizes from 3.5 inch clip-ons to extra large 24 inch plush toys, and include styles such as Hug Mees, Stackables, Mystery Squad and Flip-A-Mallows
Counterfeit or Infringing Products	Products bearing or used in connection with the Squishmallows Marks and/or Squishmallows Works, and/or products in packaging and/or containing labels and/or hang tags bearing the Squishmallows Marks and/or Squishmallows Works, and/or bearing or used in connection with marks and/or artwork that are

	confusingly or substantially similar to the Squishmallows Marks and/or Squishmallows Works and/or products that are identical or confusingly or substantially similar to the Squishmallows Products
Defendant's Website	Any and all fully interactive websites held by or associated with Defendant, its respective officers, employees, agents, servants and all persons in active concert or participation with any of them, that it operates to communicate with consumers regarding its Counterfeit Products and/or through which consumers purchase Counterfeit Products for delivery in the U.S., including, without limitation, Defendant's websites located at www.squishmallowss.com , along with the domain names associated therewith
Infringing Domain Name	www.squishmallowss.com
Defendant's Assets	Any and all money, securities or other property or assets of Defendant (whether said assets are located in the U.S. or abroad)
Defendant's Financial Accounts	Any and all financial accounts associated with or utilized by Defendant or Defendant's Website (whether said accounts are located in the U.S. or abroad)
Financial Institutions	Any banks, financial institutions, credit card companies and payment processing agencies, such as PayPal Inc. ("PayPal"), Payoneer Inc. ("Payoneer"), the Alibaba Group d/b/a Alibaba.com payment services (e.g., Alipay.com Co., Ltd., Ant Financial Services Group) and PingPong Global Solutions, Inc. ("PingPong") and other companies or agencies that engage in the processing or transfer of money and/or real or personal property of Defendant
Third Party Service Providers	Any third party providing services in connection with Defendant's Infringing Products and and/or Defendant's Website, including, without limitation, Alibaba, Internet Service Providers ("ISP"), back-end service providers, web designers, merchant account providers, any providing shipping and/or fulfillment services, website hosts, such as Cloudflare, Inc., domain name registrars, such as Amazon Registrar, Inc. ("Amazon") and GoDaddy.com, LLC ("GoDaddy"), and domain name registries

On this day, the Court considered Plaintiff's *ex parte* application for the following: 1) a temporary restraining order; 2) an order restraining Defendant's Website and Defendant's Assets with the Financial Institutions; 3) an order to show cause why a preliminary injunction should not issue; 4) an order authorizing bifurcated and alternative service; and 5) an order authorizing expedited discovery against Defendant, Third Party Service Providers and Financial Institutions in light of Defendant's intentional and willful offerings for sale and/or sales of Infringing Products.¹ Having reviewed the Application, Declarations of Jonathan Kelly and Danielle S. Futterman, along with exhibits attached thereto and other evidence submitted in support thereof, the Court makes the following findings of fact and conclusions of law:

FACTUAL FINDINGS & CONCLUSIONS OF LAW

1. Founded in 1986, Kelly Toys is one of the world's most influential, leading manufacturers and distributors of high-quality plush toys and gifts, which is known for its best-selling brands, including Pillow Chums, Kellybaby and Kellypet, among others.

2. While Kelly Toys has gained significant common law trademark and other rights in its Squishmallows Products, through its and/or its predecessor's use, advertising and promotion, Kelly Toys has also protected its valuable rights by filing for and/or obtaining federal trademark registrations.

3. For example, Kelly Toys is the owner of the Squishmallows Registrations (i.e., U.S. Trademark Registration Nos. 6,137,521 for "FLIP A MALLOW" for goods in Class 28; 5,454,574 for "SQUISHMALLOW" for goods in Class 28; 5,962,289 for "MYSTERY SQUAD" for goods in Class 28; and 2,029,047 for "KELLYTOY" for goods in Class 28). Kelly Toys also applied for the registrations of "SQUISHMALLOWS HUGMEES" and "ORIGINAL SQUISHMALLOWS",

¹ Where a defined term is referenced herein and not defined herein, the defined term should be understood as it is defined in the Glossary.

which are covered by the Squishmallows Applications (i.e., U.S. Trademark Serial Application Nos. 88/471,796 for goods in Class 28 and 90/676,140 for goods in Class 28).

4. The Squishmallows Marks are currently in use in commerce in connection with Squishmallows Products.

5. In addition, Kelly Toys is also the owner of registered copyrights in and related to the Squishmallows Products.

6. For example, Kelly Toys owns the Squishmallows Works, and the U.S. copyright registrations covering the same, which are listed in Exhibit C to the Complaint.

7. Defendant is manufacturing, importing, exporting, advertising, marketing, promoting, distributing, displaying, offering for sale and/or selling Infringing Products through Defendant's Website.

8. Defendant is not, nor has it ever been, an authorized distributor or licensee of the Squishmallows Products. Neither Plaintiff, nor any of Plaintiff's authorized agents, have consented to Defendant's use of the Squishmallows Works and/or Squishmallows Marks, nor has Plaintiff consented to Defendant's use of marks and/or artwork that are confusingly and/or substantially similar to, identical to and constitute a counterfeiting or infringement of the Squishmallows Works and/or Squishmallows Marks;

9. Plaintiff is likely to prevail on its Lanham Act, copyright and related common law claims at trial.

10. As a result of Defendant's infringements, Plaintiff, as well as consumers, are likely to suffer immediate and irreparable losses, damages and injuries before Defendant can be heard in opposition, unless Plaintiff's Application for *ex parte* relief is granted:

- a. Defendant has offered for sale and sold substandard Infringing Products that infringe the Squishmallows Works and/or Squishmallows Marks;
- b. Plaintiff has well-founded fears that more Infringing Products will appear in the marketplace; that consumers may be misled, confused and disappointed by the quality of these Infringing Products, resulting in injury to Plaintiff's reputation and goodwill; and that Plaintiff may suffer loss of sales for its Squishmallows Products; and
- c. Plaintiff has well-founded fears that if it proceeds on notice to Defendant on this Application, Defendant will: (i) secret, conceal, destroy, alter, sell-off, transfer or otherwise dispose of or deal with Infringing Products or other goods that infringe the Squishmallows Works and/or Squishmallows Marks, the means of obtaining or manufacturing such Infringing Products, and records relating thereto that are in their possession or under its control, (ii) inform their suppliers and others of Plaintiff's claims with the result being that those suppliers and others may also secret, conceal, sell-off or otherwise dispose of Infringing Products or other goods infringing the Squishmallows Works and/or Squishmallows Marks, the means of obtaining or manufacturing such Infringing Products, and records relating thereto that are in its possession or under its control, (iii) secret, conceal, transfer or otherwise dispose of their ill-gotten proceeds from their sales of Infringing Products or other goods infringing the Squishmallows Works and/or Squishmallows Marks and records relating thereto that are in their possession or under their control and/or (iv) change the host of Defendant's Website and/or create new websites under new or different names and continue to offer for sale and sell Infringing Products with little to no consequence.

11. The balance of potential harm to Defendant of being prevented from continuing to profit from its illegal and infringing activities if a temporary restraining order is issued is far outweighed by the potential harm to Plaintiff, its business, the goodwill and reputation built up in and associated with the Squishmallows Works and/or Squishmallows Marks and to its reputation if a temporary restraining order is not issued.

12. Public interest favors issuance of the temporary restraining order in order to protect Plaintiff's interests in and to its Squishmallows Works and/or Squishmallows Marks, and to protect the public from being deceived and defrauded by Defendant's passing off of their substandard Counterfeit Products as Squishmallows Products.

13. Plaintiff has not publicized its request for a temporary restraining order in any way.

14. Service on Defendant via alternative means is reasonably calculated to result in proper notice to Defendant.

15. If Defendant is given notice of the Application, it is likely to secret, conceal, transfer or otherwise dispose of its ill-gotten proceeds from its sales of Infringing Products or other goods infringing the Squishmallows Works and/or Squishmallows Marks. Therefore, good cause exists for granting Plaintiff's request for an asset restraining order. It typically takes the Financial Institutions a minimum of five (5) days after service of the Order to locate, attach and freeze Defendant's Assets and/or Defendant's Financial Accounts. As such, the Court allows enough time for Plaintiff to serve the Financial Institutions and Third Party Service Providers with this Order, and for the Financial Institutions and Third Party Service Providers to comply with the Paragraphs I(B)(1) through I(B)(2) and I(C)(1) through I(C)(2) of this Order, respectively, before requiring service on Defendant.

16. Similarly, if Defendant is given notice of the Application, it is likely to destroy, move, hide or otherwise make inaccessible to Plaintiff the records and documents relating to Defendant's manufacturing, importing, exporting, advertising, marketing, promoting, distributing, displaying, offering for sale and/or sale of Infringing Products. Therefore Plaintiff has good cause to be granted expedited discovery.

ORDER

Based on the foregoing findings of fact and conclusions of law, Plaintiff's Application is hereby **GRANTED** as follows:

I. Temporary Restraining Order

A. IT IS HEREBY ORDERED, as sufficient cause has been shown, that Defendant is hereby restrained and enjoined from engaging in any of the following acts or omissions for fourteen (14) days from the date of this order, and for such further period as may be provided by order of the Court:

- 1) manufacturing, importing, exporting, advertising, marketing, promoting, distributing, displaying, offering for sale, selling and/or otherwise dealing in Infringing Products, or any other products bearing the Squishmallows Works and/or Squishmallows Marks and/or marks and/or artwork that are confusingly and/or substantially similar to, identical to and constitute a counterfeiting or infringement of the Squishmallows Works and/or Squishmallows Marks;
- 2) directly or indirectly infringing in any manner Plaintiff's Squishmallows Marks and Squishmallows Works;

- 3) using any reproduction, counterfeit, copy or colorable imitation of Plaintiff's Squishmallows Marks and Squishmallows Works, to identify any goods or service not authorized by Plaintiff;
- 4) using Plaintiff's Squishmallows Marks and/or Squishmallows Works and/or any other marks that are confusingly similar to the Squishmallows Marks and/or any other artwork that is substantially similar to the Squishmallows Works, on or in connection with Defendant's manufacturing, importing, exporting, advertising, marketing, promoting, distributing, offering for sale, selling and/or otherwise dealing in Counterfeit Products;
- 5) using any false designation of origin or false description, or engaging in any action which is likely to cause confusion, cause mistake and/or to deceive members of the trade and/or the public as to the affiliation, connection or association of any product manufactured, imported, exported, advertised, marketed, promoted, distributed, displayed, offered for sale or sold by Defendant with Plaintiff, and/or as to the origin, sponsorship or approval of any product manufactured, imported, exported, advertised, marketed, promoted, distributed, displayed, offered for sale or sold by Defendant and Defendant's commercial activities and Plaintiff;
- 6) secreting, concealing, destroying, altering, selling off, transferring or otherwise disposing of and/or dealing with: (i) Counterfeit Products and/or (ii) any computer files, data, business records, documents or any other records or evidence relating to Defendant's Website or Defendant's Assets and the manufacture, importation, exportation, advertising, marketing, promotion, distribution, display, offering for sale and/or sale of Infringing Products;

- 7) effecting assignments or transfers, forming new entities or associations, or utilizing any other device for the purposes of circumventing or otherwise avoiding the prohibitions set forth in this Order;
- 8) linking, transferring, selling and/or operating Defendant's Website; and
- 9) knowingly instructing any other person or business entity to engage in any of the activities referred to in subparagraphs I(A)(1) through I(A)(8) above and I(B)(1) through I(B)(2) and I(C)(1) through I(C)(2) below.

B. IT IS HEREBY ORDERED, as sufficient cause has been shown, that the Third Party Service Providers and Financial Institutions are hereby restrained and enjoined from engaging in any of the following acts or omissions for fourteen (14) days from the date of this order, and for such further period as may be provided by order of the Court:

- 1) secreting, concealing, transferring, disposing of, withdrawing, encumbering or paying Defendant's Assets from or to Defendant's Financial Accounts until further ordered by this Court;
- 2) secreting, concealing, destroying, altering, selling off, transferring or otherwise disposing of and/or dealing with any computer files, data, business records, documents or any other records or evidence relating to Defendant's Assets and Defendant's Financial Accounts; and
- 3) knowingly instructing any person or business entity to engage in any of the activities referred to in subparagraphs I(A)(1) through I(A)(8) and I(B)(1) through I(B)(2) above and I(C)(1) through I(C)(2) below.

C. IT IS HEREBY ORDERED, as sufficient cause has been shown, that the Third Party Service Providers are hereby restrained and enjoined from engaging in any of the following acts or omissions for fourteen (14) days from the date of this order, and for such further period as may be provided by order of the Court:

- 1) within five (5) days after receipt of service of this Order, providing services to Defendant, including, without limitation, those relating to the continued operation of Defendant's Website;
- 2) permitting the transfer, sale and/or assignment of Defendant's Website; and
- 3) knowingly instructing any other person or business entity to engage in any of the activities referred to in subparagraphs I(A)(1) through I(A)(8), I(B)(1) through I(B)(2) and I(C)(1) through I(C)(2) above.

**II. Order to Show Cause Why A Preliminary Injunction
Should Not Issue And Order Of Notice**

A. Defendant is hereby ORDERED to show cause before this Court in Courtroom 141A of the United States District Court for the Southern District of New York at 500 Pearl Street/40 Foley Square, New York, New York on October 13, 2021 at 2:30 p.m. or at such other time that this Court deems appropriate, why a preliminary injunction, pursuant to Fed. R. Civ. P. 65(a), should not issue.

B. IT IS FURTHER ORDERED that opposing papers, if any, shall be filed electronically with the Court and served on Plaintiff's counsel by delivering copies thereof to the office of Epstein Drangel LLP at 60 East 42nd Street, Suite 2520, New York, NY 10165, Attn: Jason M. Drangel on or before October 12, 2021. Plaintiff shall file any Reply papers on or before October 13, 2021 at 10⁰⁰ A.M.

C. IT IS FURTHER ORDERED that Defendant is hereby given notice that failure to appear at the show cause hearing scheduled in **Paragraph II(A)** above may result in the imposition of a preliminary injunction against them pursuant to Fed. R. Civ. P. 65, which may take effect immediately upon the expiration of this Order, and may extend throughout the length of the litigation under the same terms and conditions set forth in this Order.

III. Asset Restraining Order

A. IT IS FURTHER ORDERED pursuant to Fed. R. Civ. P. 64 and 65 and N.Y. C.P.L.R. 6201 and this Court's inherent equitable power to issue provisional remedies ancillary to its authority to provide final equitable relief, as sufficient cause has been shown, that within five (5) ^{calendar} days of receipt of service of this Order, the Financial Institutions shall locate and attach Defendant's Financial Accounts and shall provide written confirmation of such attachment to Plaintiff's counsel.

IV. Order Authorizing Bifurcated and Alternative Service by Electronic Means

A. IT IS FURTHER ORDERED pursuant to Fed. R. Civ. P. 4(f)(3), as sufficient cause has been shown, that service may be made on, and shall be deemed effective as to Defendant if it is completed by the following means:

- 1) delivery of: (i) PDF copies of this Order together with the Summons and Complaint, or (ii) a link to a secure website (including NutStore, a large mail link created through Rmail.com and via website publication through a specific page dedicated to this Lawsuit accessible through ipcounselorslawsuit.com) where Defendant will be able to download PDF copies of this Order together with the Summons and Complaint, and all papers filed in support of Plaintiff's Application seeking this Order to Defendant's e-mail addresses, service@squishmallowss.com and gradyzvhit27@gmail.com; and

- 2) delivery via China-based courier service, S.F. EXPRESS (BEIJING) CO., LTD., of a copy of this Order together with the Summons and Complaint, and all papers filed in support of Plaintiff's Application seeking this Order to Defendant's "Shop Address", No. 3, 16th Street, Lincheng, Chashan Town, Dongguan City, Guangdong Province China.

B. IT IS FURTHER ORDERED, as sufficient cause has been shown, that such alternative service ordered herein shall be deemed effective as to Defendant, Third Party Service Providers and Financial Institutions through the pendency of this action.

C. IT IS FURTHER ORDERED, as sufficient cause has been shown, that such alternative service by electronic means ordered herein shall be made within three (3) Calendar ~~five (5)~~ days of the Financial Institutions and Third Party Service Providers' compliance with **Paragraphs III(A) and V(B)-(C)** of this Order.

D. IT IS FURTHER ORDERED, as sufficient cause has been shown, that service may be made and shall be deemed effective as to the following if it is completed by the below means:

- 1) delivery of: (i) a PDF copy of this Order, or (ii) a link to a secure website where PayPal Inc. will be able to download a PDF copy of this Order via electronic mail to PayPal Legal Specialist at EEOMALegalSpecialist@paypal.com;
- 2) delivery of: (i) a PDF copy of this Order, or (ii) a link to a secure website where Cloudflare, Inc. will be able to download a PDF copy of this Order via electronic mail to abuse@cloudflare.com;
- 3) delivery of: (i) a PDF copy of this Order, or (ii) a link to a secure website where Alibaba Cloud Computing (Beijing) Co., will be able to download a PDF copy of this Order via electronic mail to Ms. Rachel Wang, Legal Counsel, Alibaba Group at rachel.wy@alibaba-inc.com and Ms. Yajuan He, Paralegal, Alibaba Group at chloe.he@alibaba-inc.com;

- 4) delivery of: (i) a PDF copy of this Order, or (ii) a link to a secure website where Amazon will be able to download a PDF copy of this Order via electronic mail to legal@amazon.com and registrar-abuse@amazon.com; and
- 5) delivery of (i) a PDF copy of this Order, or (ii) a link to a secure website where GoDaddy will be able to download a PDF copy of this Order via electronic mail to compliancemgr@godaddy.com and courtdisputes@godaddy.com.

V. Order Authorizing Expedited Discovery

A. IT IS FURTHER ORDERED, as sufficient cause has been shown, that:

- 1) Within fourteen (14) days after receiving service of this Order, Defendant shall serve upon Plaintiff's counsel a written report under oath providing:
 - a. its true name and physical address;
 - b. the name and location and URL of any and all websites that Defendant owns and/or operates;
 - c. the complete sales records for any and all sales of Infringing Products, including but not limited to number of units sold, the price per unit, total gross revenues received (in U.S. dollars) and the dates thereof;
 - d. the account details for any and all of Defendant's Financial Accounts, including, but not limited to, the account numbers and current account balances; and
 - e. the steps taken by Defendant, or other person served to comply with **Section I**, above.
- 2) Plaintiff may serve interrogatories pursuant to Rules 26 and 33 of the Federal Rules of Civil Procedure as well as Local Civil Rule 33.3 of the Local Rules for the Southern and Eastern Districts of New York and Defendant shall provide written responses under oath to such interrogatories within fourteen (14) days of service to Plaintiff's counsel.

- 3) Plaintiff may serve requests for the production of documents pursuant to Fed. R. Civ. P. 26 and 34, and Defendant, if served with this Order and the requests for the production of documents shall produce all documents responsive to such requests within fourteen (14) days of service to Plaintiff's counsel.

B. IT IS FURTHER ORDERED, as sufficient cause has been shown, that within five (5) ^{calendar} days of receipt of service of this Order the Financial Institutions shall identify any and all of Defendant's Financial Accounts, and provide Plaintiff's counsel with a summary report containing account details for any and all such accounts, which shall include, at a minimum, identifying information for Defendant, including contact information for Defendant (including, but not limited to, mailing addresses and e-mail addresses), account numbers and account balances for any and all of Defendant's Financial Accounts and confirmation of said compliance with this Order.

C. IT IS FURTHER ORDERED, as sufficient cause has been shown, that within five (5) ^{calendar} days of receipt of service of this Order, the Third Party Service Providers shall identify any and all of Defendant's Website, and provide Plaintiff's counsel with a summary report, which shall include, at a minimum, identifying information for Defendant's Website (i.e. URLs), contact information for Defendant (including but not limited to, mailing addresses and e-mail addresses) and confirmation of said compliance with this Order.

D. IT IS FURTHER ORDERED, as sufficient cause has been shown, that:

- 1) Within fourteen (14) days of receiving actual notice of this Order, all Financial Institutions who are served with this Order shall provide Plaintiff's counsel all documents and records in their possession, custody or control (whether located in the U.S. or abroad) relating to

any and all of Defendant's Financial Accounts, including, but not limited to, documents and records relating to:

- a. account numbers;
- b. current account balances;
- c. any and all identifying information for Defendant and/or Defendant's Websites, including, but not limited to, names, addresses and contact information;
- d. any and all account opening documents and records, including, but not limited to, account applications, signature cards, identification documents and if a business entity, any and all business documents provided for the opening of each and every of Defendant's Financial Accounts;
- e. any and all deposits and withdrawals during the previous year from each and every one of Defendant's Financial Accounts and any and all supporting documentation, including, but not limited to, deposit slips, withdrawal slips, cancelled checks and account statements; and
- f. any and all wire transfers into each and every one of Defendant's Financial Accounts during the previous year, including, but not limited to, documents sufficient to show the identity of the destination of the transferred funds, the identity of the beneficiary's bank and the beneficiary's account number.

E. IT IS FURTHER ORDERED, as sufficient cause has been shown, that:

- 1) Within fourteen (14) days of receipt of service of this Order, the Third Party Service Providers shall provide to Plaintiff's counsel all documents and records in its possession, custody or control (whether located in the U.S. or abroad) relating to Defendant's Website, including, but not limited to, documents and records relating to:

- a. account details, including, without limitation, identifying information and URLs for any and all accounts or websites that Defendant has ever had and/or currently maintain with the Third Party Service Providers that were not previously provided pursuant to Paragraph V(C);
- b. the identities, location and contact information, including any and all e-mail addresses of Defendant that were not previously provided pursuant to Paragraph V(C);
- c. the nature of Defendant's business(es) and operation(s), methods of payment, methods for accepting payment and any and all financial information, including, but not limited to, information associated with Defendant's Website, a full accounting of Defendant's sales history and listing history under such accounts and Defendant's Financial Accounts with any and all Financial Institutions associated with Defendant's Website; and
- d. Defendant's manufacturing, importation, exportation, advertising, marketing, promotion, distribution, display, offering for sale and/or sale of Infringing Products, or any other products bearing the Squishmallows Marks and/or Squishmallows Works and/or marks and/or artwork that are confusingly and/or substantially similar to, identical to and constitute an infringement of the Squishmallows Marks and/or Squishmallows Works.

VI. Security Bond

A. IT IS FURTHER ORDERED that Plaintiff shall place security in the amount of \$25,000
Dollars (\$25,000) with the Court which amount is determined adequate for the payment

of any damages any person may be entitled to recover as a result of an improper or wrongful restraint ordered hereunder.

VII. Sealing Order

A. IT IS FURTHER ORDERED that Plaintiff's Complaint and exhibits attached thereto, and Plaintiff's *ex parte* Application and the Declarations of Jonathan Kelly and Danielle S. Futterman in support thereof and exhibits attached thereto and this Order shall remain sealed until the Financial Institutions and Third Party Service Providers comply with **Paragraphs I(B)-(C), III(A) and V(B)-(C)** of this Order.

SO ORDERED.

SIGNED this 30 day of September, 2021, at 5⁵⁴ p.m.


UNITED STATES DISTRICT JUDGE